EXTENSIONS OF REMARKS

INTRODUCTION OF THE PATIENTS' BILL OF RIGHTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. STARK. Mr. Speaker, I am pleased to join with my Democratic colleagues from both the House and Senate today to re-introduce the Patients' Bill of Rights. This legislation came within five votes of passage in the last Congress. We are anxious to work with our colleagues to pass this important legislation this year.

Patient protection should not be a partisan issue. This is the health care issue that continues to top this list of my constituents' concerns—and I represent California which has the longest history of managed care in our country.

The Patients' Bill of Rights is a bill whose time has come. It builds on bills that have previously been introduced, on recommendations from the President's Advisory Commission on Quality in the Health Care Industry that met last year, on legislative efforts of various states, and on consensus agreements among consumer groups, many providers, and certain health plans.

As more and more of our population joins managed care plans, the need for federal oversight of plan quality grows greater. Patients deserve to know that their health plans are held accountable to a basic set of consumer protection standards. That is what the Patients' Bill of Rights will do.

Though many states have enacted consumer protection bills, they cannot regulate many of the health plans within their borders due to our convoluted health care system. Federal action is required.

The Patients' Bill of Rights creates a set of federal standards that assures patient access to covered benefits and that holds health plans accountable for their actions.

The most important components of the bill are as follows:

Health Plan Accountability: The Patients' Bill of Rights holds health plan administrators to the same level of accountability for making medical decisions as doctors.

Under current law, if an individual receives health care benefits through his/her employer, and a health plan makes a medical decision to withhold treatment that harms a patient, that health plan's only responsibility is for the provision of benefits that had been denied. The estimates are that some 125 million Americans are in these types of health plans.

So, if a health plan denies a woman a mammography and she later is found to have advanced breast cancer—which would have been detected much earlier with the screening exam—that plan's only liability is the cost of the mammogram that was not provided.

The remedy for this is straightforward: if health care plans are going to be making medical decisions, they must be held accountable to the same standards for legal liability as health care providers.

In the last Congress, I introduced a free-standing bill (HR 1749) to correct this glaring inequity. The Patients' Bill of Rights corrects it as well. Our legislation would allow states to determine whether or not a consumer can bring a state cause of action against health plan administrators whose medical decisions result in harm.

There has been much ado about this provision and its potential impact on business. The fact of the matter is that few employers are making medical decisions regarding their employees' health care. And, the bill goes so far as to explicitly protect employers from any liability as long as they are not involved in any medical decision-making.

There has also been much talk that the courts will soon resolve the issue of ERISA preemption. Unfortunately, we are years away from a point when such resolution will be found. Courts across the country are developing very different interpretations of ERISA preemption and, consequently, there is no clear direction from their decisions. This is too important an issue to wait any longer. A legislative solution is warranted.

External Appeals: Guaranteeing consumers access to a strong, independent external appeals process is also one of the best ways to assure the provision of quality care.

Unless there is an outside, independent decision-making body for which consumers can ultimately take their appeals, we will not obtain real consumer protection. Health plans that hold a financial interest in denying care simply cannot be the final arbitrators about whether care will be provided.

The Patients' Bill of Rights calls for health plans to contract with independent external appeals entities certified by the State or the Department of Labor to provide timely analysis of the plan's actions with the help of neutral health care professionals. There are defined timelines in the legislation to ensure that consumers facing serious, time-sensitive health consequences will be able to have their appeals resolved and the appropriate care provided. For example, in the case of urgently needed care, the external appeal entity could take no more than 72 hours to issue a decision.

Disclosure of Consumer Information: Today, consumers have no way of comparing health plans based on easily understood quality criteria. The collection of standardized data and the provision of standardized comparative information is a key component of the Democratic legislation.

As an example of this lack of ability to compare plans, PacifiCare, the largest Medicare HMO contractor and an insurer in the Federal Employees Health Benefits Program, refused to release its NCQA data last year. NCQA data may not be perfect, but it is the only measure out there today by which consumers can compare health plans. PacifiCare should not have been allowed to get away with holding that data confidential.

One of my principal concerns has always been that managed care plans are quick to sign people up and collect monthly premiums, but slow to see a large number of their patients. I think that every health plan should be required, upon enrollment, to conduct an examination of each new enrollee before the health plan can receive any premium dollars.

The strongest argument in support of managed care is that when it is done well—and is truly coordinating the care of patients—it can produce superior health outcomes. The idea of a care coordinator helping a patient through the typical health care maze is a good one. But, how can a managed care plan fulfill that role if the patient is never seen, let alone evaluated?

The Patients' Bill of Rights does not go so far as to require that a plan examine a patient before premiums can be collected. However, it does require that data by presented to consumers on the plan's preventive health care services. In this way, consumers and employers will be able to compare health plans as to how fare the plan really goes toward managing patient's health. This data is available for prospective as well as current plan enrollees.

These are several of the key consumer protection and quality provisions in The Patients' Bill of Rights. I chose to highlight these points because I think they are fundamental components of meaningful managed care reform. But the bill contains many additional important protections.

The Patients' Bill of Rights is the most consumer-oriented managed care reform bill that has been introduced. Instead of protecting providers, it aims to help consumers. It calls for: direct access to OB–GYNs; direct access to specialists for patients with chronic medical conditions; coverage of routine patient costs for approved clinical trials; participation by plan physicians and pharmacists in the development of drug formularies; access to an out-of-plan specialist if no appropriate in-plan specialist is available—at no extra cost to the patient; and the creation of a consumer ombudsman in each state to help consumers make health care choices that meet their needs.

Again, I am pleased to join with my colleagues today to introduce this vitally important legislation. I look forward to working with members in both bodies and on both sides of the aisle—and with the President—to pass federally-enforced, consumer-oriented managed care legislation this year.

INTRODUCTION OF THE DISTRICT OF COLUMBIA PRISON SAFETY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. NORTON. Mr. Speaker, on January 6, 1999, I introduced the District of Columbia Prison Safety Act, a bill to assure the safety and well being of District of Columbia and other Federal Bureau of Prisons (BOP) inmates, who may be placed in private prison facilities, as well as the safety of communities where the prisons are to be located. This provision has become necessary as a result of § 11201, the 1997 District of Columbia Revitalization Act (P.L. 105–33), which requires that the BOP house in privately contracted facilities at least 2000 D.C. sentenced felons by December 31, 1999 and at least 50% of D.C. felons by September 30, 2003. Under the Revitalization Act, the Lorton Correctional Complex

is to be closed by December 31, 2001, and the BOP is to assume full responsibility for the maintenance of the District's inmate population. My bill would give the Director of the BOP the necessary discretion to decide whether to house D.C. inmates in private prison facilities, and if so, when and how many.

The Revitalization Act privatization mandate marks the first time that the BOP has been required to contract for the housing of significant numbers of inmates in private facilities. The extremely short time frames were placed in the statute without any reference to BOP capabilities or the capabilities of private prison vendors. I am introducing this bill because recent events have driven home the necessity for better informed and expert judgment and calculation before decisions to contract out inmate housing are made.

On December 3, 1998, the Corrections Trustee for the District of Columbia released a report on the investigation of problems arising from the placement of D.C. inmates in the Northeast Ohio Correctional Center (NEOCC). This highly critical report documented numerous violent confrontations between guards and inmates, an escape by six inmates, and the killing of two other inmates. The Trustee's report strongly and unequivocally critized virtually all aspects of the operations of the NEOCC.

It should be noted that the company that runs the NEOCC, Corrections Corporation of America (CCA), is the most experienced in the country. However, the industry is a new one with relatively few vendors and few bidders for substantial work. The NEOCC experience is fair warning of what could happen if BOP proceeds on the basis of an automatic mandate in spite of the evidence that has accumulated in Ohio and around the country. The mounting problems have been so troubling that the BOP was forced to revise the original request for proposals (RFP), fearful that similar problems would occur. The bid now requires two separate facilities. The new process uses two RFP, thereby separating low security male inmates from minimum security males, females and young offenders. Furthermore, the RFP for low security inmates now requires the BOP to consider prior performance of the vendors before awarding the contract. However, the new RFPs put the BOP, perhaps hopelessly, behind schedule for the privatization mandated by the Revitalization Act.

The experience of the private sector argues for a much more careful approach than Congress realized at the time the 1997 Revitalization Act was passed. For example, the 50% quota for privatization far exceeds any comparable number of similar inmates currently housed in a private facility from a single jurisdiction.

My provision does not bar privatization, but it could prevent further privatization disasters. BOP may still decide to house the same, or a different number in private facilities. The purpose of this provision is to keep the BOP from believing that it must go over the side of a cliff, avoiding more sensible alternatives, because Congress said so.

BEST OF LUCK TO REV. W.E. SPEARS, JR.

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, Sunday, November 21, 1998, Dallas bid farewell to one of its most notable religious leaders. The Reverend W.E. Spears, Jr., will preach his final sermon as the pastor of Progressive Baptist Church in Dallas.

Mr. Speaker, his departure is important to note because he founded Progressive Baptist Church with his vision, energy, and hard work 52 years ago. Throughout that time, he has provided spiritual guidance, community service, and compassion to several generations of parishioners.

Mr. Speaker, the growth of his church in both numbers of members and services is a direct testimony to his faith and work ethic. When it first began, the church had about 10 members. Today, Progressive Baptist Church boasts a membership of 500.

Under his leadership, Progressive Baptist Church promotes the teachings of Christianity to many families in the Dallas area. In addition, for several decades, Progressive Baptist Church served area school children who could not attend the George W. Carver School because of School district boundaries.

He joined his late wife in opening Spears Mortuary and an ambulance service that provided services despite the family's ability to pay. This brought much-needed services and relief to families amid times of tremendous personal loss.

Mr. Speaker, Reverend Spears is a great example of leading a church in serving its community beyond the pulpit and directly into the community. However, while I join many of my constituents in thanking him for his leadership and service at Progressive Baptist Church, I am happy to say that he will not be removing himself from the community. He does not plan to leave behind his work. Fortunately for our children, he is committed to helping them be productive citizens. As he mentioned, ''I'm still making a point of helping young people make citizens out of themselves, and I have pledged myself to working in the community at least 5 days a week.''

Mr. Speaker, I am both grateful to Reverend Spears' 52 years of service at Progressive Baptist and his commitment to continue to serve our community. On behalf of my constituents from the 30th Congressional District, I wish him success in his future endeavors.

HONORING SALLY JAMESON

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. HOYER. Mr. Speaker, I rise today to acknowledge the appointment of my good friend, Mrs. Sally Jameson as executive director of the Charles County Chamber of Commerce.

For the past 6 years, Sally has been affiliated with the Charles County Chamber of Commerce; 5 of those years she served the Legislative Committee.

Prior to her appointment, Sally was the director of the Waldorf Jaycee Community Center since it opened in 1992. Today, it has evolved as a focal point for Charles County and is currently undergoing expansion.

Mr. Speaker, she is working with the Charles County public schools on a student exchange with students in Walldorf, Germany, and with the Charles County commissioners on a twin-city establishment between Waldorf, MD and Walldorf, Germany.

Sally is a life-long resident of Charles County and resides in Bryantown with her husband, Gene and two children, Donnie and Michelle.

Mr. Speaker, I am convinced that Sally will be a tremendous asset to the Chamber of Commerce and southern Maryland. I am proud to be her Representative in Congress and I ask you and the remainder of my colleagues to join with me in acknowledging the appointment of this fine American.

THE 40TH ANNIVERSARY OF THE KNOX MINE DISASTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 19, 1999

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the fortieth anniversary of an infamous day in Pennsylvania's Eleventh Congressional District, the Knox Mine Disaster. This Sunday, a state historical marker will be unveiled to commemorate the tragedy. I am pleased to have been asked to participate in this event.

January of 1959 brought unseasonably high temperatures and drenching rains to the Wyoming Valley. The Susquehanna River began to surge wildly and reached near flood stage by the evening of January 21. Most area residents were worried about their homes and businesses and gave little thought to the potential disaster underground. Miners at the Knox Coal Company's River Slope mine in Luzerne County had expressed fears for weeks about the conditions at the mine, but their complaints fell on deaf ears. On the morning of January 22, seventy-five miners headed for work in the May Shaft and six miners headed to the River Slope. The six laborers soon summoned a veteran miner to hear the shrill cracking sounds of the ceiling props. As he stepped into the mine to investigate, the roof of the mine gave way and water poured into the mine. The miners scrambled out of the mine to safety and quickly reported the flooding to mine officials who ordered evacuation of all adjoining shafts.

Thirty-three of the miners quickly escaped the churning waters as the river took over the mine, but forty-five men remained trapped below as the river swirled into the breach. Thirty-three miners eventually made their way up an abandoned air shaft located a few hundred feet upriver from the breach. Twelve men remained missing.

Mr. Speaker, hope for these twelve brave miners endured for several days as family members kept vigil on the river bank. Eventually, methane gas began to flow from the mine and the officials had no choice but to end the rescue attempt. Each of the survivors had his story of escape and told the stories of those who did not.